

REMARKS

Applicants thank Examiner Simone for acknowledging the references cited in the Information Disclosure Statement filed December 10, 2002.

Claims 1, 5, and 7 are currently amended.

Claims 16-17, presently withdrawn, are currently amended.

Claim 18 is added.

Support for the amendment is found in Example 1 (pp. 65-70 (specifically: p. 66, ll. 1-4; 2<sup>nd</sup> para. p. 67)).

The rejection of claims 1-15 under 35 USC § 102(a) in view of Michihata (EP 1072399) is traversed. It is requested that the Examiner reconsider the rejection in light of the amendment to claim 1 and the discussion of the present invention in light of Michihata's product.

The discussion regarding patentable distinctness of the instant invention must follow a clarification of a statement made by the Office in the Official Action (Paper No. 11) dated January 15, 2003. The Office states that:

Michihata et al. discloses a fuel container formed by bonding upper and lower sections, for which both the upper and lower sections are made by thermo-forming a multi-layer sheet that comprises an interlayer of a barrier resin (A) (see page 8, lines 48-50) and inner and outer layers of a polyolefin (B) (see page 8, lines 30-35), and of which the surface of the innermost layer is coated with a layer of a barrier material (C) (see page 9, lines 48-50).

Applicants contend that this statement is without basis. Firstly, Michihata does not disclose "a fuel container formed by bonding upper and lower sections." Rather, Michihata describes a coextrusion blow-molded fuel container (Abstract, p. 1). Secondly, the statement made by the Office, "of which the surface of the innermost layer is coated with a layer of a barrier material" is not correct.

Michihata's process produces a fuel container with a layered structure that comprises "a barrier layer made of a barrier resin (A); and an inner layer and an outer layer made of a

thermoplastic resin (B) that is different from the barrier resin (A)" (p. 2, ll. 24-26). In some instances, the process yields "a cutting face of a pinch-off part of the container [that] is covered by a barrier member made of a barrier material (C)" (p. 2, ll. 43-46; Figures 1 and 3). This resultant structural feature exposes the thermoplastic inner layer to the outside environment, and gives rise to an unacceptable rate of fuel permeation (p. 4, ll. 15-17). Michihata's remedy to this problem is to apply a sufficient quantity of barrier material (C) to cover the thermoplastic resin exposed to the outside environment by the pinched seam in order to insulate the thermoplastic inner layer from the outside environment (p. 11, line 56 – p. 12, line 3; Figure 6). Thus, the barrier material covers that part of the thermoplastic layer which is exposed to the outer environment, which constitutes only a very small area of the container's surface. This is in contrast to the instant invention.

Specifically, the present invention relates to a fuel container formed by bonding upper and lower sections, for which both the upper and lower sections are made by thermo-forming a multi-layer sheet that comprises an interlayer of a barrier resin (A) and inner and outer layers of a polyolefin (B), and of which the surface of the inner layer opposite to the interlayer (i.e., inside the container) is coated with a layer of a barrier material (C).

Unlike that disclosed by Michihata, Applicants' process gives rise to a product wherein the barrier material (C) is present inside the fuel container and covers the surface of the inner layer, which is opposite that of the interlayer. This difference serves as a basis for patentable distinction. Furthermore, the process limitations present in claims 1 and 10-15 do impart patentable weight, as they describe the structural form of the resultant product. Since this process produces a product that is structurally different from that produced by Michihata, the present invention is neither anticipated nor rendered obvious by Michihata's disclosure. In light of the above clarification and discussion, it is respectfully requested that the Examiner withdraw the current rejection.

The Examiner's rejection of claims 1-15 under 35 USC § 112 2<sup>nd</sup> paragraph is believed to be obviated by amendment. The amendment of claim 1 serves to clarify the fact that "the surface of the inner layer opposite to the interlayer is coated with a layer of a barrier material (C)." Additionally, claims 5 and 7 are amended such that "RH" is read as "relative humidity." One of ordinary skill would recognize that the meaning of "RH," within the context of the experimental results, is "relative humidity." It is requested that the Examiner withdraw this rejection.

In light of the above discussion, it is believed that claims 1-15 are in condition for allowance. Applicants respectfully direct the Examiner's attention to MPEP § 821.04, which states that "if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined." Process claims 16 and 17 recite a process that produces the allowable product. Accordingly, Applicants respectfully request rejoinder of the non-elected process claims.

Upon entry of the amendment, withdrawal of the rejections, and rejoinder of the non-elected process claims; claims 1-18 are active.

An action on the merits and allowance of all of the claims is respectfully requested.

Respectfully submitted,

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